

REMARKS

Claim Rejections – 35 USC § 112

The Examiner has rejected claims 1-8 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner notes that the phrase “said development plan” has been added to claim 1 but does not have any additional language related to the development plan. Applicant has amended claim 1 to indicate that development plans are established to assist in preparing candidates for expatriate assignments. Applicant respectfully submits claim 1 as amended overcomes the rejection.

Claim Rejections – 35 USC § 103

The Examiner has rejected claims 1, 2, 4-8, 10, 12, and 15-19 under 35 UCS § 103(a) as being unpatentable over Harvey (*The Selection of Managers for Foreign Assignments; A Planning Perspective*, The Columbia Journal of World Business) and US Pat. Pub. No. 2001/0034630 (Mayer) further in view of *China HR Manager of the Year*, China Staff, Oct. 2003, Vol. 9, No. 10, p. 23 (China HR). The Examiner states that Harvey teaches every claim limitation except for providing associates with preview information regarding expatriate assignments prior to their identification as candidates and associates agreeing to be considered as candidates prior to receipt of information for a first group of candidates. It is the Examiner’s position Mayer teaches these

aspects of the claimed invention. The Examiner also relies on Mayer to teach entering assessment and other data in a computer to facilitate the process of identifying a pool of candidates. The Examiner states that it would be obvious to modify Harvey to include the teaching of Mayer because the claimed invention is a combination of old elements and in the combination, each element performs the same function it did separately and the results of the combination are predictable.

The Examiner further states that Harvey and Mayer do not explicitly teach retaining information for unselected candidates for consideration in future assignments. The Examiner relies on China HR to teach this aspect of the invention. The Examiner states that it would be obvious to modify Harvey to include the teaching of Mayer because the claimed invention is a combination of old elements and in the combination, each element performs the same function it did separately and the results of the combination are predictable.

Applicant has amended the claims to indicate more clearly that in the present invention, the candidate pool is developed prior to identifying specific assignments and that when a specific assignment is identified, a candidate is selected from the candidate pool. In view of Applicant's amended claims, Applicant respectfully traverses the rejections. Applicant respectfully submits that Harvey does not teach various aspects of the claimed invention and in particular, does not teach "identifying a specific assignment related to said expatriate assignments to be filled by a candidate from said group of expatriate candidates." The Examiner relies on p. 105, Exhibit 1 of the Harvey reference to teach "identifying a specific assignment related to said expatriate

assignments." Applicant respectfully submits that Harvey does not teach identifying a specific assignment *after* a pool of candidates for expatriate assignments has been selected as in the claimed invention. In Harvey, Exhibit 1 shows the step of determining position requirements and criteria as occurring during a "stage one: policy level" phase, which clearly occurs before a "stage two: strategic level" phase of clustering candidates and a "stage three: selection of candidates" phase. A pool of candidates is identified at the end of stage two and not before the step of determining position requirements and criteria in stage one. Harvey further teaches on p. 108 with regard to the stage two process that "[b]y analyzing the vacant position, using these various indicators, a strategic decision can be made as to where to search for potential candidates."

Applicant's amended claims indicate clearly that in the claimed invention, the candidate pool is developed in advance of identifying specific assignments. Harvey does not teach or even suggest this claim element and therefore, cannot be used to reject the claims. In fact, Harvey teaches away from the claimed invention by teaching that a search for candidates occurs *after* a vacant position is identified and analyzed.

The Examiner asserts that Harvey teaches other claim elements related to identifying associates who may be eligible for assignments, identifying a first set of candidates, administering assessments, creating a pool of candidates for expatriate assignments based on assessments, and creating development plans for the pool of candidates. Applicant respectfully submits that the cited passages of Harvey do not teach these aspects of the claimed invention in relation to creating a candidate pool. In Harvey, all of the above activities occur in relation to stage three of the dynamic

selection process shown on page 105 and therefore, occur *after* the stage one phase of determining position requirements and criteria and *after* the stage two phase of clustering candidates. Harvey explains that in stage two, candidates are clustered and evaluated in relation to a “position in a foreign location.” The testing, assessment, and training of candidates occurs as part of the stage three selection phase for a particular position and not as part of a process for identifying a pool of candidates *before* a specific assignment is identified. Therefore, Harvey does not teach these aspects of the claimed invention and cannot support rejection of the claims.

Mayer fails to make up for the deficiencies of Harvey. Mayer teaches a “job positions” database comprising job and candidate profiles. Candidates can review specific information for open positions and employers can review information about candidates that may be selected for an open position. In either case, it is a specific opening at an organization that causes a candidate or employer to search the database. Applicant respectfully submits that Mayer’s teachings are consistent with Harvey’s teachings in that job positions are defined first and then candidates for open job positions compete in a selection process. Like Harvey, Mayer teaches away from the claimed invention by teaching that potential candidates are identified after a vacant position is identified.

With regard to the claim elements of providing preview information and identifying candidates who have reviewed preview information and agreed to be considered for assignments, the Examiner relies on Mayer’s teachings related to the ability to review job description information. Applicant respectfully submits that every

job description provided in Mayer relates to a specific job listing and therefore, is not “preview information regarding a plurality of expatriate assignments.” Para. [0078] indicates clearly that after searching the job database and reviewing job descriptions, a candidate can indicate that he or she is interested in “a particular job listing.” In any case, the description information for specific jobs is not used to create a pool of candidates. It provides only information about specific job openings.

Applicant respectfully submits the teachings in Harvey and Mayer are very similar and are directed to finding or matching candidates to specific job openings. Harvey and Mayer when combined teach processes in which the starting point is a specific job opening and the goal is to find a candidate for the specific job opening. Therefore, neither reference teaches a series of activities that result in creation of a pool of candidates, identifying a specific assignment to be filled by a candidate from the pool of candidates, and then selecting a candidate for the specific job opening. Applicant respectfully submits that these teachings are not present in the prior art and therefore, the claimed invention is not a combination of old elements that when combined perform as they did separately and that render predictable results. Applicant respectfully submits the references cannot support the claim rejections.

The Examiner relies on the China HR reference to teach the claim element of retaining information for unselected candidates for consideration in future specific assignments. In particular, the Examiner relies on a passage in which the reference teaches that a talent management program involves identifying a pool of key talents and then promoting them to higher positions. Applicant respectfully submits that the

cited passage cannot be construed to teach the claim element of retaining information for unselected candidates for consideration in future specific assignments. It simply is not clear from the passage what happens to candidates that are not selected for an assignment.

The Examiner also relies on China HR to the general concepts of candidate pool development, retention, and selection therefrom. Applicant respectfully submits that the China HR reference does not correct the deficiencies of Harvey and Mayer with respect to identifying specific expatriate assignments from expatriate assignments to be filled by candidates from a group of expatriate candidates. China HR teaches a talent management program in which certain employees are selected for a development program and are promoted to higher positions when filled positions become vacant. China HR further cites an example in which a position formerly held by an expatriate was filled with a local employee. Applicant respectfully submits that the reference teaches nothing more than employees receiving training in order to be promoted to other positions. Even if China HR can be construed to teach creating a pool of candidates, Applicant respectfully submits that the teachings of China HR cannot be combined with the teachings of Harvey and Mayer to render the claimed invention obvious. If Harvey and Mayer are modified so that a pool of candidates is developed in advance of identifying a specific assignment, neither system or process would work for its original, intended purpose, which is to find candidates for specific assignments. The phases of Harvey would be rearranged in their entirety and Mayer would no longer function as a job matching program involving specific job listings. Applicant respectfully

submits many aspects of the claimed invention are simply not present in the prior art and therefore, the claimed invention is not a combination of old elements with results that are predictable.

Conclusion

Applicant has amended claims to distinguish the claimed expatriate associate selection process over the Harvey, Mayer, and China HR references. Applicant respectfully submits that the present application is now in condition for allowance, and such action is earnestly requested.

Respectfully submitted,

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